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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,606	07/26/2001	Judson L. Smith	4024-16	6777

7590

06/17/2004

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EXAMINER

MAUST, TIMOTHY LEWIS

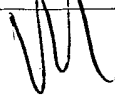
ART UNIT

PAPER NUMBER

3751

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/915,606	Applicant(s) SMITH, JUDSON L. 	
	Examiner Timothy L Maust	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-90 is/are pending in the application.
- 4a) Of the above claim(s) 48-52 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-52 and 72-90 is/are allowed.
- 6) ☒ Claim(s) 1-17, 53, 55, 56 and 69 is/are rejected.
- 7) ☒ Claim(s) 54, 57-68, 70 and 71 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I, claims 1-47 and 53-90 (all apparatus claims being rejoined; see interview summary and Applicant's response) is acknowledged.

Claim Rejections - 35 USC § 112

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "said means for pumping" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hippely et al.

In regard to claim 1, the Hippely et al. reference discloses a "hand treatment agent dispenser" 10 (Fig. 3) comprising a "housing" 12, a "storing means" (defined by

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the inner chamber that stores liquid 13), at least one "port" 92, "discharging means" 72 and a "unique identifier" 20 that distinguishes the dispenser from other hand treatment dispensers, as claimed.

In regard to claim 2, see "connecting means" 44 in Figure 1.

In regard to claim 3, the "proximal end" 54 is attached to housing 12 and the "distal end" (not shown) loops around the neck of a user.

In regard to claims 8 and 12, the piston-like action of discharging means 72 "enables" a predetermined amount of lotion to be dispensed and is positioned as best understood from claim 12.

Claims 1, 8, 10, 11, 13, 14, 16, 17, 53, 55, 56 and 69 are rejected under 35 U.S.C. 102(b) as being anticipated by Shu et al.

In regard to claims 1, 8, 10, 13, 14, 53, 56 and 69, the Shu et al. reference discloses a hand treatment agent "dispenser" (see Fig. 2) comprising a "housing" 1, "storing means" 6, a "port" 13, a "discharging means" 3, a "piston pump" 4, "notches" 12 and a "unique identifier" 11 (defined by the window, shape of the container, model number, patent number, etc...) to distinguish said dispenser from other hand treatment agent dispensers, as claimed.

In regard to claims 11 and 55, see bag 6.

In regard to claims 16 and 17, "notches" 12 facilitate reception for "guide rods"

21.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **1-10, 53, 55 and 56** are rejected under 35 U.S.C. 103(a) as being unpatentable over Villaveces in view of Hippely et al.

In regard to claims **1, 8, 10, 53, 55 and 56**, the Villaveces reference discloses a hand treatment agent "dispenser" 10 comprising a "housing" 12, "storing means" 54, a "port" 30, a "discharging means" 22 and a "piston pump" 40, but does not disclose a "unique identifier". The Hippely et al. reference discloses another dispenser (discussed supra) having a label 20 (i.e., a unique identifier) to indicate the substance contained in the dispenser. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a label (unique identifier) on the Villaveces device (if not already) in view of the teachings of the Hippely et al. reference in order to indicate the substance contained in the dispenser.

In regard to claims **2-4 and 6**, see "connection means" 60 and Figures 20-24 (Villaveces).

In regard to claims **5, 7 and 9**, the Villaveces reference discloses the invention substantially as claimed (discussed supra), but does not disclose weight, size and storing capacity. However, it would have been obvious to one having ordinary skill in

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the art at the time the invention was made to make the Villaveces device of the claimed weight, size and storing capacity, since it has been held to be within the general skill of a worker in the art to select a weight, size and storing capacity on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416

Allowable Subject Matter

Claims 18-47 and 72-90 are allowed.

Claims 54, 57-68, 70, 71 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims **1-17, 53, 55, 56 and 69** have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L Maust whose telephone number is (703) 308-3390. The examiner can normally be reached on Tue. - Fri. 6:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Timothy L Maust
Primary Examiner
Art Unit 3751

Tlm
6/9/04